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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 ABMAN GLASTER,

8 Plaintiff,

9 v.

10 WARDEN, *et al.*,

11 Defendants.

Case No. 2:19-cv-00015-RFB-VCF

ORDER

12 Before this Court is Plaintiff's Motion for TRO / Injunction. ECF Nos. 3, 4. Plaintiff is a
13 prisoner housed at Clark County Detention Center. ECF No. 1-1. Plaintiff alleges that he has been
14 prescribed Oxycodone, 15 mg, 4 times per day by Dr. Rucker but has not received this medication,
15 which is necessary to manage his chronic pain. Id. Plaintiff further alleges that Defendants will
16 not schedule a consult with a chiropractor or allow Plaintiff to be seen by a prison doctor for his
17 condition. Id. Plaintiff seeks emergency injunctive relief from this Court ordering Defendants to:
18 (1) issue pain medication as prescribed by Dr. Rucker; (2) schedule Plaintiff a consultation with a
19 chiropractor; and (3) reimburse \$17.63 to Plaintiff's inmate account. ECF Nos. 3, 4.

20 The analysis for a temporary restraining order is "substantially identical" to that of a
21 preliminary injunction. Stuhlbarg Intern. Sales Co, Inc. v. John D. Brush & Co., Inc., 240 F.3d
22 832, 839 n.7 (9th Cir. 2001). A preliminary injunction is "an extraordinary remedy that may only
23 be awarded upon a clear showing that the plaintiff is entitled to such relief." Winter v. Natural
24 Res. Def. Council, Inc., 555 U.S. 7, 22 (2008). To obtain a preliminary injunction, a plaintiff must
25 establish four elements: "(1) a likelihood of success on the merits, (2) that the plaintiff will likely
26 suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in
27 its favor, and (4) that the public interest favors an injunction." Wells Fargo & Co. v. ABD Ins. &
28 Fin. Servs., Inc., 758 F.3d 1069, 1071 (9th Cir. 2014), as amended (Mar. 11, 2014) (citing Winter,

1 555 U.S. 7, 20 (2008)). A preliminary injunction may also issue under the “serious questions”
2 test. Alliance for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1134 (9th Cir. 2011) (affirming the
3 continued viability of this doctrine post-Winter). According to this test, a plaintiff can obtain a
4 preliminary injunction by demonstrating “that serious questions going to the merits were raised
5 and the balance of hardships tips sharply in the plaintiff’s favor,” in addition to the other Winter
6 elements. Id. at 1134-35 (citation omitted).

7 A pretrial detainee’s claims regarding inadequate medical care fall under the Fourteenth
8 Amendment’s Due Process Clause, which imposes an “objective deliberate indifference” standard.
9 Gordon v. Cty. of Orange, 888 F.3d 1118, 1125 (9th Cir. 2018). A Plaintiff must prove four
10 elements for a successful claim: “(i) the defendant made an intentional decision with respect to the
11 conditions under which the plaintiff was confined; (ii) those conditions put the plaintiff at
12 substantial risk of suffering serious harm; (iii) the defendant did not take reasonable available
13 measures to abate that risk, even though a reasonable official in the circumstances would have
14 appreciated the high degree of risk involved—making the consequences of the defendant’s conduct
15 obvious; and (iv) by not taking such measures, the defendant caused the plaintiff’s injuries.” Id.
16 The third element requires the court to consider if the defendant’s conduct is “objectively
17 unreasonable.” Id. The inquiry is case specific, turning on the particularities of the facts and
18 circumstances in a case. Id. A plaintiff must “prove more than negligence but less than subjective
19 intent—something akin to reckless disregard.” Id.

20 Plaintiff attaches several grievances to his Complaint demonstrating his pursuit of pain
21 medication and a chiropractic consultation, but the Court does not have medical records or other
22 objective evidence to support Plaintiff’s allegations at this time. Grievance responses suggest that
23 prison policy forbids Oxycodone within the facility and that Defendants have been attempting to
24 manage Plaintiff’s pain with ibuprofen. The record before the Court at this time does not
25 demonstrate deliberate indifference to Plaintiff’s medical needs. Because Plaintiff has not yet
26 raised serious questions going to the merits, the Court denies the motion for a temporary restraining
27 order. However, the Court defers ruling on the motion for a preliminary injunction pending a
28 review of Plaintiff’s medical records and a hearing.

1 The Court notes that it will consider the motion for a preliminary injunction with regard to
2 Plaintiff's request for pain medication and a back pain consultation, but will not consider Plaintiff's
3 request for monetary reimbursement, as monetary injury is not irreparable. See Los Angeles
4 Mem'l Coliseum Comm'n v. Nat'l Football League, 634 F.2d 1197, 1202 (9th Cir. 1980).

5 Therefore,

6 **IT IS ORDERED** that the Motion to Amend (ECF No. 5) is GRANTED and the attached
7 complaint shall be filed by the Clerk of Court.

8 **IT IS FURTHER ORDERED** that the Plaintiff's Motion for TRO (ECF No. 3) is
9 DENIED without prejudice.

10 **IT IS FURTHER ORDERED** that the Clerk of Court shall serve a copy of the Amended
11 Complaint and Motion for Preliminary Injunction upon the warden at the Clark County Detention
12 Center.

13 **IT IS FURTHER ORDERED** that Defendants' response to Plaintiff's Motion for
14 Injunction (ECF No. 4) is due by February 11, 2019.

15 **IT IS FURTHER ORDERED** that Defendants are instructed to provide Plaintiff's
16 medical records to the Court under seal by February 12, 2019.

17 **IT IS FURTHER ORDERED** that a hearing on Plaintiff's Motion for Injunction (ECF
18 No. 4) is set for February 19, 2019 at 11:00 AM in LV Courtroom 7C.

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20 DATED: February 2, 2019.



21 **RICHARD F. BOULWARE, II**
22 **United States District Judge**
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